

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2010-118085-001 DT

05/13/2011

HONORABLE JOSEPH C. WELTY

CLERK OF THE COURT
D. McGraw
Deputy

STATE OF ARIZONA

THOMAS MCDERMOTT
AARON HARDER

v.

MICHAEL JOHN JAKSCHT (001)

ROBYN GREENBERG VARCOE
JENNIFER L WILLMOTT

VICTIM SERVICES DIV-CA-CCC

MINUTE ENTRY

8:48 a.m. This is the time set for Status Conference/Trial Scheduling Conference.

State's Attorney:	Thomas McDermott
Defendant's Attorney:	Robyn Greenberg Varcoe and Jennifer L. Willmott
Defendant:	Present
Court Reporter:	Lydia Estrada-Gray

Discussion is held regarding the trial schedule in this matter and pretrial issues.

The Court notes that jury selection will commence in CCB Courtroom 1201 on June 6, 2011. During the jury selection process, the Court will permit a certain number of the victims' family members to be seated behind State's counsel's table.

The Court ascertains that both parties want the trial of this matter to remain in this Division.

For purposes of time prescreening, the trial will be conducted on Mondays through Thursdays, commencing on June 6, 2011, and proceeding through August 11, 2011. Trial will

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not be held on the following days: June 22 through June 24, June 27 through June 30, July 4, July 18 through July 22, and July 25 through July 28, 2011.

Pursuant to the agreement of the parties,

The Court will prescreen the jury for time given the trial schedule set forth above.

LET THE RECORD REFLECT that the parties waive their involvement for the time pre-screening process and waive any objections to any hardship determinations made by the Court.

The Court notes that the following Motions have not been resolved:

- Defendant's Motion *In Limine* Re: Mr. Jakscht's Alleged Lack Of Remorse filed on February 28, 2011.
- Defendant's Objection To Admission Of Greusome [sic] Photographs filed on February 28, 2011.
- Defendant's Motion To Suppress Statements filed on May 11, 2011.
- Defendant's Motion To Compel Expert Opinion filed on May 9, 2011.
- Defendant's Motion For Taking Of A Deposition filed on May 5, 2011.

Discussion is held regarding the Motions set forth above.

The State advises the Court that a Response to the Motion to Suppress Statements can be filed by May 20, 2011.

IT IS ORDERED setting Evidentiary Hearing/Oral Argument on Defendant's Motion to Suppress Statements on **May 24, 2011, at 10:30 a.m. (time allotted: 1.5 hours)**. At that time the Court will also address the Defendant's Motion in Limine re: Defendant's lack of remorse and the issues relating to the photographs.

The Court notes that Judge Pineda's minute entry dated April 22, 2011, directed the parties to exchange the photographs and confer regarding same.

IT IS ORDERED that counsel for the Defense shall provide to the Court the specific photographs that require the Court's ruling. The disc containing the photographs shall be submitted to the Court **by May 20, 2011**.

The parties advise the Court that Dr. Logan's deposition has been rescheduled to May 16, 2011. Accordingly,

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IT IS ORDERED denying Defendant's Motion for Taking of a Deposition without prejudice.

Counsel for the Defense advises the Court that the Motion to Compel Expert Opinion has been resolved. Accordingly,

IT IS ORDERED denying Defendant's Motion to Compel Expert Opinion as moot.

Discussion is held regarding the State's pending Motion In Limine Regarding Inadmissible Hearsay.

The Court notes that the State's Motion in Limine Regarding Inadmissible Hearsay will be ruled on during the course of the trial. The parties are reminded that hearsay is inadmissible at trial absent specific, enumerated exceptions.

Counsel for the Defense advises the Court that a motion to preclude improper expert opinion and a motion to preclude video clips are forthcoming and that the Defense may obtain their own reconstruction expert. Counsel for the State advises the Court that a motion to preclude a specific witness is forthcoming.

IT IS ORDERED that the forthcoming motions as noted above **shall be filed by close of business on May 16, 2011, and the parties are to be prepared to discuss same on May 24, 2011.**

IT IS FURTHER ORDERED setting Final Trial Management Conference on **May 31, 2011, at 8:30 a.m.** before Judge Welty. The Court will not permit Ms. Varcoe to appear telephonically at the Final Trial Management Conference.

Prior to the Final Trial Management Conference, the Court will e-mail a draft of the proposed preliminary jury instructions to the parties. The Court expects the parties to prepare, and be prepared to discuss, any additions to the proposed preliminary jury instructions.

IT IS ORDERED that the parties shall file with the Clerk of Court any special voir dire questions to be requested of the Court, and a hard copy of same is to be provided to this Division, **prior to May 31, 2011.**

JOINT PRETRIAL STATEMENT

Counsel shall meet and confer prior to the Trial Management Conference (TMC) and jointly prepare a Joint Pretrial Statement (JPTS). The JPTS is to be filed with the Clerk of Court

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and a copy of same provided to this Court **no later than four (4) business days prior to the date of the TMC**. The Joint Pretrial Statement shall follow the approved JPTS form and shall also include:

1. An agreed upon statement of the case to be read to the jury.
2. Requested jury voir dire questions.
3. Final witness and exhibits lists.
4. Any memoranda of law regarding legal issues that the parties anticipate will arise during the course of the trial.
5. Requested special jury instructions.
6. Motions outstanding together with law.
7. Forms of verdict.

Pursuant to Rule 21.2, Rules of Criminal Procedure, counsel shall submit to the Court, at the Trial Management Conference, all requested and anticipated jury instructions and forms of verdict for each count to be tried to the Court, including, but not limited to, all lesser included charges instructions and forms of verdict. Counsel shall confer regarding all requested instructions prior to the commencement of trial and be prepared on the first day of trial to resolve all issues regarding the requested and anticipated instructions. Failure to submit the instructions and to resolve issues as directed herein may result in the Court imposing sanctions.

IT IS ORDERED affirming prior custody orders.

LAST DAY REMAINS: July 7, 2011.

9:20 a.m. Matter concludes.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encourage to review Supreme Court Administrative Orders 2010-117 and 2011-10 to determine their mandatory participating in eFiling through AZTurboCourt